

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 183

Pinellas County

SPONSOR(S): Nehr

TIED BILLS:

IDEN./SIM. BILLS:

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Military & Local Affairs Policy Committee		Nelson	Hoagland
2)	Economic Development & Community Affairs Policy Council			
3)	Finance & Tax Council			
4)	Policy Council			
5)				

SUMMARY ANALYSIS

HB 183 creates a charter for the Town of Palm Harbor in Pinellas County. The bill provides for:

- a council-manager form of government;
- city boundaries and municipal powers;
- a town council and for the membership, qualifications, election, terms, meetings, and powers and duties of the council; grounds for forfeiture and suspension; filling of vacancies; and compensation and expenses;
- appointment of charter officers, including a town manager and attorney; removal, compensation, and filling of vacancies; and qualifications, powers and duties;
- appointment of a town clerk;
- expenditures of town funds; establishment of town boards and agencies; contracting for traditional municipal services; a code of technical regulation; emergency ordinances and appropriations; recordkeeping; adoption of an annual budget and appropriations; a reserve fund; referendum requirements for revenue bonds and other multiyear contracts; financial audits; elections; and recall;
- a charter review committee and future charter amendments; standards of conduct in office; severability; a personnel system; charitable contributions; and land use changes;
- a transitional schedule and procedures for an initial election; first-year expenses; and adoption of transitional ordinances, resolutions, comprehensive plans and local development regulations;
- continuation of the communications services tax; accelerated entitlement to state-shared revenues; receipt and distribution of motor fuel tax revenues; transferring property, records and equipment; pending matters; participation in the local government infrastructure surtax; waiver of certain statutory requirements; continuation of certain services; and law enforcement.

The bill also establishes a referendum and effective dates.

According to the Economic Impact Statement, the estimated cost of administration, implementation and enforcement of the bill is \$22,216,714 in Fiscal Year 2009-2010 and \$21,636,451 in Fiscal Year 2010. Anticipated sources of funding include \$1,300,321 in revenue sharing, \$2,854,696 in half cent sales tax, \$8,939,095 in ad valorem taxes, \$5,064,836 in local government infrastructure surtax, and \$3,024,583 in communication services tax for both Fiscal Years 2009-2010 and 2010-2011. Anticipated new, increased or decreased revenues are noted as \$24,205,239 for Fiscal Year 2009-2010 and \$23,205,239 for Fiscal Year 2010-2011.

Pursuant to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.5(b) appear to apply to this bill.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0183.MLA.doc

DATE: 3/23/2009

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives:

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Constitutional Provisions

Section 2, Art. VII of the State Constitution provides that municipalities¹ may be established or abolished and their charters amended pursuant to general or special law. Municipalities are constitutionally granted all governmental, corporate and proprietary powers to enable them to conduct municipal government, perform municipal functions and render municipal services, and may exercise any power for municipal purposes except as otherwise provided by law. The only specific constitutional requirement concerning municipal government is that its legislative body be elected.

Statutory Provisions

Florida law governing the formation and dissolution of municipal governments is found in ch. 165, F.S., the "Formation of Municipalities Act." The stated purpose of the Act is to provide standards, direction and procedures for the incorporation, merger and dissolution of municipalities so as to:

- allow orderly patterns of urban growth and land use;
- assure adequate quality and quantity of local public services;
- ensure financial integrity of municipalities;
- eliminate or reduce avoidable and undesirable differentials in fiscal capacity among neighboring local governmental jurisdictions; and
- promote equity in the financing of municipal services.

Under ch.165, F.S., there is only one way to establish a city government where no such government exists: the Legislature must pass a special act creating the city's charter, upon determination that the standards provided in that chapter have been met.² Section 165.081, F.S., provides that any special law enacted pursuant to ch. 165, F.S., is reviewable by certiorari if the appeal is brought before the effective date of the incorporation.

¹ A municipality is a local government entity, located within a county, which is created to perform additional functions and provide additional services for the particular benefit of the population within the municipality. The term "municipality" can be used interchangeably with the terms "city," "town" and "village."

² An exception to this rule exists in Miami-Dade County where the county has been granted the exclusive power to create cities through the State Constitution and its home rule powers. See, s. 165.022, F.S., and s. 6(e), Art. VIII of the State Constitution. Adopted in 1957, the Miami-Dade Home Rule Charter provides for the creation of new municipalities at section 5.05.

Requirements and Standards for Municipal Incorporation

Submittal of a feasibility study and a local bill that proposes the local government charter is required for consideration of incorporation. In addition, the new municipality must meet the following conditions in the area proposed for incorporation pursuant to s. 165.061(1), F.S.:

- It must be compact, contiguous and amenable to separate municipal government.
- It must have a total population, as determined in the latest official state census, special census or estimate of population, of at least 1,500 persons in counties with a population of less than 75,000, and of at least 5,000 persons in counties with a population of more than 75,000.
- It must have an average population density of at least 1.5 persons per acre or have extraordinary conditions requiring the establishment of a municipal corporation with less existing density.
- It must be a minimum distance of at least two miles from the boundaries of an existing municipality within the county or have an extraordinary natural boundary that requires separate municipal government.
- It must have a proposed municipal charter that clearly prescribes and defines the form of government and its functions and does not prohibit or restrict the levy of authorized tax.
- In accordance with s. 10, Art. I of the State Constitution, the plan for incorporation must honor existing solid-waste contracts in the affected geographic area subject to incorporation.

Feasibility Study

The feasibility study is a survey of the proposed area to be incorporated. The purpose of the study is to enable the Legislature to determine whether or not the area: 1) meets the statutory requirements for incorporation, and 2) is financially feasible. The feasibility study must be completed and submitted to the Legislature at least 90³ days prior to the first day of the regular legislative session during which the bill proposing the incorporation would be enacted.

In 1999, the Legislature revised s.165.041, F.S., by adding new, detailed requirements for the preparation of the required feasibility study for any area requesting incorporation. Specifically, the study must include:

- The general location of territory subject to a boundary change and a map of the area that identifies the proposed change.
- The major reasons for proposing the boundary change.
- The following characteristics of the area:
 - a list of the current land use designations applied to the subject area in the county comprehensive plan;
 - a list of the current county zoning designations applied to the subject area;
 - a general statement of present land use characteristics of the area; and
 - a description of development being proposed for the territory, if any, and a statement of when actual development is expected to begin, if known.
- A list of all public agencies, such as local governments, school districts and special districts, whose current boundaries fall within the boundary of the territory proposed for the change or reorganization.

³ Section 165.041(1)(b), F.S.

- A list of current services being provided within the proposed incorporation area, including, but not limited to, water, sewer, solid waste, transportation, public works, law enforcement, fire and rescue, zoning, street lighting, parks and recreation, and library and cultural facilities, and the estimated costs for each service.
- A list of proposed services to be provided within the proposed incorporation area, and the estimated cost of such services.
- The names and addresses of three officers or persons submitting the proposal.
- Evidence of fiscal capacity and an organizational plan that, at a minimum, includes:
 - existing tax bases, including ad valorem taxable value, utility taxes, sales and use taxes, franchise taxes, license and permit fees, charges for services, fines and forfeitures, and other revenue sources, as appropriate; and
 - a five-year operational plan that, at a minimum, includes proposed staffing, building acquisition and construction, debt issuance and budgets.
- Data and analysis to support the conclusion that incorporation is necessary and financially feasible, including population projections and population density calculations and an explanation concerning methodologies used for such analysis.
- Evaluation of the alternatives available to the area to address its policy concerns.
- Evidence that the proposed municipality meets the standards for incorporation of s.165.061, F.S.

The Municipal Charter

Section 165.061(1)(e), F.S., requires a proposed municipal charter that prescribes the form of government and clearly defines the responsibility for legislative and executive functions. The charter also must not prohibit the legislative body of the municipality from exercising its powers to levy any tax authorized by the Constitution or general law. However, numerous practical matters—such as the content of the charter—that are important to consider when proposing the creation of a new city are not addressed in ch. 165, F. S. For example, a charter should contain important matters that are not subject to change by simple ordinance. Chapter 166, F.S., requires that each municipality provide procedures for filling a vacancy in an elected office caused by death, resignation or removal from office. While this requirement may be satisfied through the passage of an ordinance, the issue is fundamental enough to the governance of a municipality to be included in its charter.

Formation Activity In Florida

Municipal Incorporations and Mergers

From 1972 to the present, 25 municipalities have been incorporated, with 17 municipalities created by special act (Bonita Springs, DeBary, Deltona, Destin, Ft. Myers Beach, Islamorada, Jacob City, Lake Mary, Marathon, Marco Island, Midway, Palm Coast, Sanibel, Southwest Ranches, Wellington, West Park and Weston). During this time, one municipality was recreated by special act after previous incorporation under authority of general law in effect prior to 1974 (Seminole). The cities of Key Biscayne, Pinecrest, Aventura, Sunny Isles Beach, Miami Lakes, Palmetto Bay, Doral and Cutler Bay were created under Miami-Dade County's Charter. The following table indicates recent municipal incorporations by year, county and enabling law.

YEAR	MUNICIPALITY	COUNTY	ENABLING LAW
1973	LAKE MARY	Seminole County	ch. 73-522, L.O.F.

1974	SANIBEL	Lee County	ch. 74-606, L.O.F.
1983	JACOB CITY	Jackson County	ch. 83-434, L.O.F. ch. 84-456, L.O.F.
1984	DESTIN	Okaloosa County	ch. 84-422, L.O.F. ch. 85-471, L.O.F.
1986	MIDWAY	Gadsden County	ch. 86-471, L.O.F.
1991	KEY BISCAYNE	Miami-Dade County	by authority of the Miami-Dade County Charter
1993	DEBARY	Volusia County	ch. 93-351, L.O.F. ch. 93-363, L.O.F.
1995	AVENTURA	Miami-Dade County	by authority of the Miami-Dade County Charter
1995	PINECREST	Miami-Dade County	by authority of the Miami-Dade County Charter
1995	FT. MYERS BEACH	Lee County	ch. 95-494, L.O.F.
1995	DELTONA	Volusia County	ch. 95-498, L.O.F.
1995	WELLINGTON	Palm Beach County	ch. 95-496, L.O.F.
1996	WESTON	Broward County	ch. 96-472, L.O.F.
1997	ISLAMORADA	Monroe County	ch. 97-348, L.O.F.
1997	MARCO ISLAND	Collier County	ch. 97-367, L.O.F.
1997	SUNNY ISLES BEACH	Miami-Dade County	by authority of the Miami-Dade County Charter
1999	BONITA SPRINGS	Lee County	ch. 99-428, L.O.F.
1999	MARATHON	Monroe County	ch. 99-427, L.O.F.
1999	PALM COAST	Flagler County	ch. 99-448, L.O.F.
2000	SOUTHWEST RANCHES	Broward County	ch. 2000-475, L.O.F.
2000	MIAMI LAKES	Miami-Dade County	by authority of the Miami-Dade County Charter

2002	PALMETTO BAY	Miami-Dade County	by authority of the Miami-Dade County Charter
2003	DORAL	Miami-Dade County	by authority of the Miami-Dade County Charter
2003	MIAMI GARDENS	Miami-Dade County	by authority of the Miami-Dade County Charter
2004	WEST PARK	Broward	ch. 2004-454, L.O.F.
2005	CUTLER BAY	Miami-Dade County	by authority of the Miami-Dade County Charter
2006	LOXAHATCHEE GROVES	Palm Beach	ch. 2006-328, L.O.F.
2006	GRANT-VALKARIA	Brevard	ch. 2006-348, L.O.F.

Failed Attempts at Municipal Incorporation

Over the years, a number of incorporation attempts have failed. Since 1980, Floridians have rejected the formation of municipal governments by voting down the incorporation efforts of:

- A city in the Halifax area of Volusia County (1985)
(ch. 85-504, L.O.F.)
- The City of Fort Myers Beach (1982/1986)
(chs. 82-295 and 86-413, L.O.F.)
- The City of Spring Hill (1986)
(ch. 86-463, L.O.F.)
- The City of Deltona Lakes (1987)
(ch. 87-449, L.O.F.)
- The City of Deltona (1990)
(ch. 90-410, L.O.F.)
- The City of Marco Island (1980/1982/1986/1990/1993)
(chs. 80-541, 82-330, 86-434, 90-457 and 93-384, L.O.F.)
- The City of Port LaBelle (1994)
(ch. 94-480, L.O.F.)
- The City of Destin (1995)
(by authority of the Miami-Dade County Charter)
- The City of Ponte Vedra (1998)
(ch. 98-534, L.O.F.)
- The Village of Key Largo (1999)

(ch. 99-430, L.O.F.)

- The City of Southport (1999)
(ch. 99-444, L.O.F.)
- The Village of the Lower Keys (2000)
(ch. 2000-383, L.O.F.)
- The Village of Paradise Islands (2000)
(ch. 2000-382, L.O.F.)
- The City of Southport (2006)
(ch. 2006-329, L.O.F.)

Town of Palm Harbor

Background and History

The unincorporated community of Palm Harbor is situated on the Gulf of Mexico in northern Pinellas County about 23 miles northwest of Tampa and 25 miles north of St. Petersburg. Palm Harbor originally was called Sutherland, and thought to be named after Duke of Sutherland, who visited the area after landing at Tarpon Springs in 1887. Local pioneers dismiss this coincidence, pointing out that the name Sutherland is a shortening of "Southern Land and Development Company," the group which originally platted the community in 1888.⁴ Sutherland boasted two beautiful hotels, the larger one becoming Southern College in 1902. The name was changed to Palm Harbor during the 1920s' land boom.⁵

Palm Harbor Feasibility Study and Incorporation Efforts

In October 2007, the "Greater Palm Harbor Community Coalition" directed a study to determine the feasibility of incorporating the community of Palm Harbor. A feasibility study was submitted to the Legislature, and a bill⁶ was filed that provided for incorporation of the area. That bill died in the Committee on Local and Urban Affairs during the 2008 legislative session.

A subsequent feasibility study on the subject incorporation, as required by ch. 165, F.S., was submitted to the Florida House of Representatives on December 4, 2008.⁷ The deadline for submission of feasibility studies was December 3, 2008, pursuant to the s. 165.041(1)(b), F.S., provision that such studies be submitted to the Legislature 90 days before the first day of the regular session. Thus, this statutory requirement was not met.

The study and the charter were provided to the: Legislative Committee on Intergovernmental Relations, Office of Economic & Demographic Research, Department of Revenue, Office of the Governor and Department of Community Affairs for review. Selected and edited responses of these reviewers are noted throughout this analysis and under "Comments" in Section III, C.

⁴ According to the Department of Community Affairs' review of the feasibility study for Palm Harbor, Sutherland was the first platted community in Florida.

⁵ "Clearwater: A Pictorial History" by Michael L. Sanders (1983) ISBN: 0-89865-401-7.

⁶ HB 1359.

⁷ The 2008 study differs from the 2007 version in that it excludes the unincorporated area of North Pinellas that is east of Lake Tarpon, and includes the Crystal Beach and Ozona communities.

STANDARDS FOR INCORPORATION ⁸

As reported in the feasibility study:

- The area proposed for incorporation meets the requirement that the area be compact and contiguous (page 23) as required by s. 165.061(1)(a), F.S. This corresponds with information provided by the Pinellas County Planning Department.
- There is a 2008 estimated population of 61,838 for the area (page 23) which is comparable to the population estimates provided by the Pinellas County Planning Department. Thus, the proposed incorporation meets the population requirement of 5,000 found at s. 165.061(1)(b), F.S., for counties with a population of more than 75,000.
- The number of acres proposed for incorporation is 11,456 (page 24). The Pinellas County Planning Department estimates the acreage at 13,000. The density of the area proposed for incorporation is 5.4 persons per acre based on the study estimate and 4.8 persons per acre based on the Planning Department's estimates. In either case, the area proposed for incorporation meets the required minimum of 1.5 persons per acre required by s. 165.061(1)(c), F.S.
- The area to be incorporated does not maintain a distance of at least two miles from the municipal boundaries of Clearwater, Dunedin, Oldsmar and Tarpon Springs as required by s. 165.061(1)(d), F.S. (page 24). The study suggests, however, that the service planning lines of these four municipalities, predominantly north and south of the Palm Harbor area, serve as natural boundaries which require a separate municipal government. The study also notes that Lake Tarpon and its outflow canal on its eastern boundaries and the Gulf of Mexico on the west of the area proposed for incorporation should be considered as natural boundaries which require a separate municipal government. Moreover, the study notes that because Pinellas County is the most densely populated urban county in Florida, the two-mile minimum requirement may be an unduly difficult criterion to meet. As such, it cannot be ascertained whether the unique characteristics of Palm Harbor serve as extraordinary conditions as required by law.

FEASIBILITY STUDY REQUIREMENTS ⁹

Section 165.041, F.S., provides numerous requirements for the feasibility study. A review of the study determined that:

- The study (pages 12-15) includes maps of the area proposed for incorporation, and as such, meets the requirement that it provide the general location for the proposed municipality. Section 165.041(b)1., F.S.
- The study (page 10) meets the requirement that it provide reasons for pursuing incorporation. Section 165.041(b)2., F.S. The major reasons cited for incorporation are to preserve the integrity and heritage of Palm Harbor, protect its tax base, and to elect a local government responsible to the local community. The study proposes, however, that Pinellas County government, and existing special districts would continue providing many essential services. Thus, it is unclear how the Palm Harbor area would obtain its incorporation objectives if Pinellas County government and the special districts retain authority for these quality of life functions.
- The study (page 17) meets the requirement that it include a list of current land use designations applied to the area as currently contained in the county comprehensive plan. Section 165.041(b)3.a., F.S.

⁸ The comments in this section incorporate those made by the Legislative Committee on Intergovernmental Relations in its review dated March 23, 2009.

⁹ Ibid.

- The study (pages 18-19) meets the requirement that it include a list of current zoning designations. Section 165.041(b)3.b., F.S.
- The study (page 20) meets the requirement that it include a general statement of present land use characteristics of the area. Section 165.041(b)3.c., F.S.
- The study (page 20) reports that no major developments are currently proposed for the area. Noting that Pinellas County is the most densely populated county in Florida, the study suggests that redevelopment, not growth management would be issues facing the proposed incorporation area. As such, the study appears to meet the requirement to describe proposed development. Section 165.041(b)3.d., F.S.
- The study (pages 20-22) meets the requirement to identify all local public agencies with boundaries lying within the territory proposed for incorporation. Section 165.041(b)4., F.S.
- The study (pages 25-32) meets the requirement to identify current public service providers, and cost estimates for each of those services. Section 165.041(1)(b)5., F.S.
- The study (pages 33-47) appears to meet the requirement that it identify proposed services and estimated costs for the proposed services. Although the study does not include a letter from the Pinellas County Sheriff's Office indicating its interest in continuing to provide law enforcement services to the Palm Harbor area should it incorporate for the amount identified in the study, conversations with representatives of the Pinellas County Sheriff's Office noted their interest in entering into such a contract and suggested the amount identified in the budget as generally adequate. A representative of the Pinellas County Office of the County Administrator reported that the Pinellas County Board of County Commissioners' position on the Palm Harbor incorporation is neutral. The services that the study identifies that will be provided by Pinellas County, in particular those associated with permitting, zoning, inspections, and code enforcement, are somewhat significant line items expenditures in a municipal government's budget. As such, it cannot be ascertained whether the costs associated with these services as provided in the study's budget are accurate. Section 165.041(1)(b)6, F.S.
- The study (page 22) meets the requirement that it include the name and address of the three persons submitting the proposal. Section 165.041(1)(b)7, F.S.
- The study appears to meet the s.165.041(1)(b)8, F.S., requirement that it provide evidence of the fiscal capacity for the area proposed for incorporation, with the following caveats:
 - As noted above, services related to permitting, inspections and code enforcement can represent a sizable percent of total expenditures for most municipalities. The information included in the study is insufficient to ascertain whether the amount budgeted for these services is accurate. However, the tax base of Palm Harbor area with or without the tax bases of Ozona and Crystal Beach is sufficient to generate additional revenues necessary to compensate for any budget shortfalls.
 - The study addresses basic tax bases and revenue sources available to a municipality and provides revenue estimates for some of them. Other revenue sources available to municipalities, however, are not identified. These and other revenue sources included in the study require some clarification.
 - State shared revenues (SSR) are identified as revenue sources for Palm Harbor. In order to be eligible to participate in these programs, a municipality is required to meet certain criteria. These requirements include certain financial and audit reports and a minimum local taxing effort equal to the amount that would be generated by three mills of ad valorem property taxes. The study presents the 2008 taxable value of property within Palm Harbor at \$4,285,897,010. Based on this projected taxable value, the three-mill equivalency for Palm Harbor is equal to approximately \$12,857,691. The study budget meets this requirement using

revenues currently generated through two fire and rescue districts and a community services special district which collectively generate an estimated \$18,642,796 in ad valorem tax revenue. Section 9(9) of the proposed charter provides for inclusion of these revenue sources to meet the three-mill requirement. Additionally, the charter provides that revenues generated from the communications service tax and franchise fees are also directed to meet the millage requirement. Such revenues are usually not considered and in this case are unnecessary to meet this requirement and as such, should be removed.

SSR estimates provided in the study are slightly less than those estimates calculated by the Office of Tax Research, Florida Department of Revenue. Actual SSR distribution amounts are calculated by the Office of Tax Research, and as such, are considered to be the more accurate.

- The study (pages 50-52) includes a five-year operational plan and budget.
- The study (53-69) meets the requirement that it provide data and analysis to support the conclusion that incorporation is necessary and financially feasible, including population projections and population density calculations. Section 165.041(1)(b)9, F.S.
- The study (pages 22-23) meets the requirement for evaluating alternatives available to the area regarding its policy concerns. Section 165.041(1)(b)10, F.S.
- As previously noted, the study does not provide evidence required by s.165.041(1)(b)11, F.S., that the proposed municipality meets the requirements for incorporation pursuant to s. 165.061, F.S., relating to the two-mile minimum distance requirement.

CHARTER REQUIREMENTS ¹⁰

As required by s. 165.061(1)(e), F.S., the proposed charter must prescribe the form of government and clearly define the responsibilities for legislative and executive functions. The charter meets this requirement. A charter also must not prohibit the legislative body of the municipality from exercising its powers to levy any tax authorized by the Florida Constitution or general law. Section 8 (8) of the charter authorizes an initiation by petition for charter amendments to be voted on by electors. It may be appropriate to clarify that the subject of such a petition may not prohibit the legislative body of the municipality from exercising its powers to levy any tax authorized by the Florida Constitution or general law. With this clarification added, the charter appears to meet this criterion.

Pursuant to s. 165.061(1)(f), F.S., the plan for incorporation must honor existing solid-waste contracts in the affected geographic area subject to incorporation for five years or the remainder of the contract term, whichever is less. The study (page 51) meets this criterion. However, it may be appropriate to add a section in the charter that recognizes the existing solid-waste contract.

Effect of Proposed Changes

HB 183 provides for the creation of the Town of Palm Harbor, Florida, and provides for the city charter.

Proposed Charter

The proposed charter for the Town of Palm Harbor provides as follows:

Section 1: Charter; creation; form of government; boundaries and powers.

CHARTER; CREATION; CORPORATE BOUNDARIES

This section of the charter provides that the act will be known as the "Charter of the Town of Palm Harbor," and creates the Town of Palm Harbor. It also provides the corporate boundaries of the town.¹¹

¹⁰ Ibid.

FORM OF GOVERNMENT

The Town of Palm Harbor will have a council-manager form of government.¹²

MUNICIPAL POWERS

The charter provides that the town will have all available powers of a municipality under the State Constitution and general law, as fully and completely as though such powers were specifically enumerated in the charter.

Section 2: Council; mayor; vice mayor.

COUNCIL

This section of the charter provides for a five-member town council vested with all legislative powers of the town.¹³ All charter powers are to be exercised by the council, unless otherwise provided for in the charter.

MAYOR; VICE MAYOR; POWERS AND DUTIES.

At its first regular meeting each year, the council is required to elect a mayor and vice mayor from its members who each serve for one year and have the same legislative powers and duties as other council members.

In addition to carrying out the regular duties of a council member, the mayor presides at the meetings of the council and is recognized as the head of town government for service of process, and the signature or execution of ordinances, contracts,¹⁴ deeds, bonds, and other instruments and documents and for purposes of military law.¹⁵ The mayor also serves as the ceremonial head of the town and the town official designated to represent the town when dealing with other entities. The mayor has no administrative duties other than those necessary to accomplish these actions or such other actions as authorized by the town council, consistent with general or special law.

In addition to carrying out the regular duties of a council member, the vice mayor, in the absence of the mayor, acts as mayor, presides at the meetings of the council, and is recognized as the head of town government for service of process, and the signature or execution of ordinances, contracts, deeds, bonds, and other instruments and documents and for purposes of military law. The vice mayor, in the absence of the mayor, serves as the ceremonial head of the town and is designated to represent the

¹¹ Section 1(1) (c) provides intent to preserve and protect the distinct characteristics of Palm Harbor and “any communities who wish to join the incorporation.” The statement is vague and should identify the specific communities of Ozona and Crystal Beach. Legislative Committee on Intergovernmental Relations.

¹² Under the council-manager form of government, the elected governing body is responsible for establishing policy, passing local ordinances, voting appropriations, and developing an overall vision for a city. A mayor performs primarily ceremonial duties. The elected officials appoint a city manager to oversee the daily operations of the government and implement their policies. The council-manager system places all power into the hands of the legislative branch. The city manager has a similar role to that of corporate chief executive officer in providing professional management to an organization.

¹³ This comports with recommendations by the *Model City Charter* (National Civic League, Denver, Colorado) that a council be “smaller” to allow for the effective development of programs and transaction of municipal business.

¹⁴ Section 2(2)(b) authorizes the mayor to sign contracts; Section 4(3)(e)11. directs the town manager to sign contracts on behalf of the city; and Section 4(4)(d)3. requires that the town attorney to approve all contracts, bonds, and other instruments in which the town is concerned, noting that no contract with the town shall take effect until the attorney has endorsed it. It may be appropriate to clarify the assignment of responsibilities to avoid confusion. In addition, municipal home rule powers already allow city councils to enter into such contracts and, as such, may not be necessary to include in the charter. Legislative Committee on Intergovernmental Relations.

¹⁵ Sections 2(2) (b) and (c) provide for the mayor or vice-mayor in place of the mayor, to serve some function “for purposes of military law.” State law does not designate a function for mayors to assume “for purposes of military law.” It may be appropriate to remove this reference. Legislative Committee on Intergovernmental Relations.

town when dealing with other entities. The vice mayor has no administrative duties other than those necessary to accomplish these actions or such other actions as authorized by the town council, consistent with general or special law.

In the absence of the mayor and vice mayor, the remaining council members select a council member to serve as acting mayor.

Section 3: Election and terms of office.

TERM OF OFFICE

Council members are elected for four-year terms. They are sworn into office at the first regularly scheduled meeting after their election. Each council member remains in office until his or her successor is elected and assumes the duties of the position.

DESIGNATED COUNCIL SEATS

The town council consists of five seats which are elected at-large.¹⁶

QUALIFICATION

Candidates for each council seat must qualify for council elections in accordance with applicable general law. To qualify for office, each candidate is required to:

1. File a written notice of candidacy with the town clerk at such time and in such manner as may be prescribed by ordinance, and pay any qualifying fees as required by general law.
2. Be a registered elector in the state.
3. Have maintained domicile within the town for one year prior to qualifying for election and, if elected, maintain such residency throughout his or her term of office. Any resident of the town who wishes to become a candidate for a council seat must qualify with the town clerk no sooner than noon on the second Tuesday in January, nor later than noon on the first Tuesday in February, of the year in which the election is held.

VACANCIES IN OFFICE; FORFEITURE; SUSPENSION; FILLING OF VACANCIES; COMPENSATION AND EXPENSES

Vacancies in Office

A vacancy in the office of any council member occurs upon the death of the incumbent, removal from office as authorized by law, resignation, appointment to other public office which creates dual officeholding, judicially determined incompetence, or forfeiture of office.

Forfeiture of Office

A council member must forfeit his or her office upon determination by the council, acting as a body at a duly noticed public meeting, that he or she:

1. Lacks at any time, or fails to maintain during his or her term, any qualification for the office prescribed by the charter or otherwise required by law;
2. Has been convicted of a felony or entered a plea of guilty or nolo contendere to a crime punishable as a felony, even if adjudication of guilt was withheld;

¹⁶ Such an election scheme may be vulnerable to legal challenge under the 1965 U.S. Voting Rights Act, depending on the area's demographics. Legislative Committee on Intergovernmental Relations.

3. Has been convicted of a first degree misdemeanor arising directly out of his or her official conduct or duties, or entered a plea of guilty or nolo contendere, even if adjudication of guilt was withheld;
4. Has been found to have violated any standard of conduct or code of ethics established by law for public officials and has been suspended from office by the Governor, unless subsequently reinstated as provided by law;¹⁷ or
5. Has been absent from three consecutive regular council meetings without good cause or for any other reason established in the charter.

The council is the sole judge of the qualifications of its members and hears all questions relating to forfeiture of a council member's office, including whether or not good cause for absence has been or may be established.

The burden of establishing good cause falls on the council member in question; however, any council member may move during any duly held meeting to establish good cause for his or her absence or the absence of any other council member from any past, present or future meeting, which motion, if carried, is conclusive.

A council member whose qualifications are in question or who is otherwise subject to the forfeiture of his or her office may not vote on such matters. The council member is entitled to a public hearing upon request regarding an alleged forfeiture of office. If a public hearing is requested, notice must be published in one or more newspapers of general circulation in the town at least one week in advance of the hearing. Any final determination that a member has forfeited his or her office must be made by resolution. All votes and other acts of the council member prior to the effective date of any such resolution are valid regardless of the grounds of forfeiture.

Suspension from Office

A council member will be suspended from office upon return of an indictment or issuance of any information charging the member with a crime that is punishable as a felony or with a crime arising out of his or her official duties that is punishable as a first degree misdemeanor.

During a period of suspension, a council member may not perform any official act, duty, or function or receive any pay, allowance, emolument, or privilege of office.

If the council member is subsequently found not guilty of the charge or if the charge is otherwise dismissed, reduced, or altered in such a manner that suspension would no longer be required, the suspension is lifted and the council member is entitled to receive full back pay and other emoluments or allowances.

Filling of Vacancies

If a vacancy occurs in the office of any council member, the remaining members are required to, within 30 days after the occurrence of the vacancy, appoint a person by majority vote to fill the vacancy until the next regularly scheduled town election.

The first choice for the replacement council member is the candidate from that district¹⁸ who received the second highest number of votes in the last election.¹⁹

¹⁷ See, s. 112.317(5), F.S.

¹⁸ The use of the term "district" in this instance apparently is meant to refer to a particular council seat.

¹⁹ This provision may be perceived as disenfranchisement by voters who chose not to elect that person to office in the previous election. Legislative Committee on Intergovernmental Relations.

If the council fails to appoint a replacement council member within 45 days of the vacancy, it is required to call for a special election to fill that vacancy, to be held no sooner than 90 days and no later than 120 days following the occurrence of the vacancy and as otherwise governed by law.

Any person appointed to fill a vacancy on the council is required to meet the qualifications of the seat to which he or she is appointed.

Notwithstanding any quorum requirements established in the charter, if at any time the full membership of the council is reduced to less than a quorum, the remaining members may appoint additional members by majority vote.

In the event that all members are removed by death, disability, recall, forfeiture of office, or resignation, or any combination thereof, the Governor appoints interim council members who are required to call a special election within not less than 30 days or more than 60 days after such appointment. This election is held in the same manner as the initial elections under the charter. However, if less than six months remain in any unexpired term, the interim council member appointed by the Governor serves out that unexpired term. Appointees must meet all requirements for candidates as provided in the charter.

Compensation and Expenses

Town council members are entitled to reimbursement in accordance with general law for authorized travel and per diem expenses incurred in the performance of their official duties.²⁰

They are compensated at the rate of \$8,000 per year, except that the mayor is paid \$10,000 per year. The town council, by not less than four affirmative votes, may elect to adjust such compensation by ordinance. However, an ordinance increasing compensation does not take effect until the date of commencement of the terms of council members elected at the next regular election following its adoption.

Section 4. Administrative provisions.

DESIGNATION OF CHARTER OFFICERS

The town manager and the town attorney are designated as charter officers, except that the office of town attorney may be contracted to an attorney or law firm.

APPOINTMENT; REMOVAL; COMPENSATION; FILLING OF VACANCIES

Charter officers are appointed by a majority vote of the full council and serve at their pleasure. A charter officer may not be a member of the council or a candidate for council. The compensation of the officers is fixed by the council through the approval of an employment contract.

The charter officers can be removed from office only by a supermajority vote of the full council. A charter officer can demand that a public hearing be held prior to his or her removal.

The town council is required to begin the process to fill a vacancy in a charter office within 90²¹ days after the vacancy occurs. An acting town manager or an acting town attorney may be appointed by the council during such a vacancy.

²⁰ While s. 112.061, F.S., provides for such expenses, the governing body of a municipality may provide for a policy that varies from these provisions pursuant to s. 166.021, F.S.

²¹ This appears to be an excessive length of time to initiate the process to fill a vacancy. Legislative Committee on Intergovernmental Relations.

TOWN MANAGER

The council is required to appoint a town manager to serve as the administrative head of the municipal government under their direction and supervision. The town manager is appointed by resolution approving an employment contract between the town and the town manager.

The town manager is required to have the minimum qualifications of a combination of a bachelor's degree in public administration, business administration, or other related field from an accredited college or university and three years' public administration experience. It is preferred that the town manager be credentialed by the International City/County Management Association²² or obtain such credential within two years of being appointed.

During the absence or disability of the town manager, the council may by resolution designate a properly qualified person to temporarily serve as the "acting town manager." The town manager or acting town manager may be removed by the council at any time.

As the chief administrative officer, the town manager is required to:

1. Direct and supervise the administration of all departments, offices and agencies of the town, except the office of town attorney and except as otherwise provided by the charter or by general law.
2. Appoint, suspend, or remove any employee of the town or appointive administrative officer provided for under the charter, except the office of town attorney and except as may otherwise be provided by law, the charter, or personnel rules adopted pursuant to the charter. The town manager may authorize any administrative officer who is subject to his or her direction and supervision to exercise these powers with respect to subordinates.
3. Ensure that all laws, provisions of the charter, and acts of the council are faithfully executed.
4. Prepare and submit the annual budget and capital program to the council in the form prescribed by ordinance.
5. Attend meetings of the town council.
6. Draw and sign vouchers upon depositories as provided by ordinance and keep, or cause to be kept, a true and accurate account of same.
7. Sign all licenses issued by the town, issue receipts for all moneys paid to the town, and deposit such moneys in the proper depositories on the first banking day after receipt. The town manager may delegate these responsibilities to a bonded town employee.²³
8. Provide administrative services in support of the official duties of the mayor and the council.
9. Keep the council advised as to the financial condition and future needs of the town and make recommendations to the council concerning the affairs of the town.
10. Submit to the council, and make available to the public, a complete report on finances and administrative activities of the town at the end of each fiscal year.
11. Sign contracts on behalf of the town to the extent authorized by ordinance.

²² See, <http://www.icma.org/main/bc.asp?bcid=124&hsid=1&ssid1=2521&ssid2=2522>.

²³ The charter does not similarly require the town manager (or town attorney) to be bonded. Legislative Committee on Intergovernmental Relations.

12. Perform such other duties as are specified in the charter or as may be required by the council.

TOWN ATTORNEY

The town attorney is employed under terms and conditions deemed advisable by the council, which may include the appointment of a law firm.

The town attorney is required to be a member in good standing with the Florida Bar, have been admitted to practice in the state for at least five years, and have at least two years' experience in the practice of local government law.

The town attorney has sole discretion to appoint, promote, suspend, demote, remove, or terminate deputy and assistant town attorneys, subject to the town's annual budget. He or she is required to perform the following functions in addition to other functions as designated by the council:

1. Serve as chief legal advisor to the council, the charter officers, and all town departments, offices and agencies.
2. Attend all regular and special council meetings, unless excused, and perform such professional duties as may be required by law or the council in furtherance of the law.
3. Approve all contracts, bonds and other instruments in which the town is concerned and endorse on each his or her approval. No contract with the town may take effect until this endorsement.²⁴
4. Prosecute and defend on behalf of the town all complaints, suits and controversies in which the town is a party, when requested to do so by the council.
5. Perform such other professional duties as required by resolution of the council or as prescribed for municipal attorneys in general law that are not inconsistent with the charter.
6. Prepare an annual budget for the operation of the office of the town attorney and submit this budget to the town manager for inclusion in the annual town budget, in accordance with uniform town procedures.

TOWN CLERK

The town manager is required to appoint a town clerk or a management firm to serve as town clerk. The clerk is required to give notice of council meetings to members and the public, keep minutes of council proceedings, and perform such other duties as the council or town manager prescribes. The clerk reports to the town manager.

EXPENDITURE OF TOWN FUNDS

No funds of the town may be expended except pursuant to approved appropriations or for the payment of bonds, notes, or other indebtedness authorized by the council.

TOWN BOARDS AND AGENCIES

Except as otherwise provided by law, the council may establish or terminate boards and agencies as it deems advisable. The boards and agencies report to the council. Members of the boards and agencies are appointed by resolution.

²⁴ This provision does not account for the fact that other individuals have the authority to sign town contracts, and, as such, can enter into enforceable agreements.

CONTRACTING FOR TRADITIONAL MUNICIPAL SERVICES

The charter provides that it is the intent of the town to provide traditional municipal services through public and private contract providers. Accordingly, these services will be rendered through contract providers rather than town employees, unless approved by at least a four-fifths vote of the town council.²⁵ If the town council determines that a traditional municipal service is to be provided through town employees, the town manager is responsible for the hiring, supervision and removal of all such employees.

For purposes of the charter, "traditional municipal services" means public safety, public works, administrative services, community development, and community services.

Section 5: Legislative provisions.

REGULAR MEETINGS

The council is required to conduct regular meetings at such times and places as it prescribes by resolution. Such meetings are public meetings within the meaning of general law and subject to notice and other requirements of law applicable to public meetings.

SPECIAL MEETINGS

Special meetings may be held at the call of the mayor or, in his or her absence, at the call of the vice mayor. Special meetings also may be called upon the request of a majority of the council members. Unless a meeting is of an emergency nature, the person or persons calling the meeting must provide at least 72 hours prior notice to the public.

COMMENCEMENT

All meetings will be scheduled to commence no earlier than 7 a.m. and no later than 10 p.m.

RULES; ORDER OF BUSINESS

The council is required to determine its own rules and order of business.

QUORUM

A majority of the full council constitutes a quorum.

VALIDITY OF ACTION

No action of the council is valid unless adopted by an affirmative vote of the majority of the full council, unless otherwise provided by law.

LEGISLATIVE POWERS

Except as otherwise prescribed by the charter or as provided by law, the legislative powers of the town are vested in the council.

²⁵ The four-fifths vote may be overly restrictive. Elsewhere in the charter, a four-fifths vote is referred to as a supermajority. It may be appropriate to use the term supermajority for consistency purposes. Legislative Committee on Intergovernmental Relations.

DEPARTMENTS

The council may establish such other departments, offices, or agencies as it determines necessary for the efficient administration and operation of the town. Any such departments, offices, or agencies must be established by ordinance.

CODE

The council may adopt a standard code of technical regulations by reference thereto in an adopting ordinance and may amend the code in the adopting ordinance or later amendatory ordinance. The procedures and requirements governing such an adopting ordinance are as prescribed for ordinances generally, except that:

1. Requirements regarding distribution and filing of copies of the ordinance are not construed to require distribution and filing of copies of the adopted code of technical regulations.
2. A copy of each adopted code of technical regulations, as well as of the adopting ordinance, are authenticated and recorded by the town clerk.

EMERGENCY ORDINANCES

To meet a public emergency affecting life, health, property, or the public peace, the council may adopt one or more emergency ordinances in the manner provided by general law.²⁶ Such ordinances may not enact or amend a land use plan or rezone private property; levy taxes; grant, renew, or extend any municipal franchise; set service or user charges for any municipal services; or authorize the borrowing of money, except for emergency appropriations.

An emergency ordinance must be introduced in the form and manner prescribed for ordinances generally, except that it must be plainly designated in a preamble as an emergency ordinance and contain, after the enacting clause, a declaration stating that an emergency exists and describing the emergency in clear and specific terms.

Upon the affirmative vote of a majority of council members, an emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced. After its adoption, the ordinance must be advertised and printed as prescribed for other ordinances. An emergency ordinance becomes effective upon adoption or at such other date specified in the ordinance.

Every emergency ordinance, except an emergency appropriation ordinance, will automatically be repealed as of the 61st day²⁷ after its effective date, but may be reenacted under regular procedures or, if the emergency still exists, as an emergency ordinance. An emergency ordinance also may be repealed by adoption of a repealing ordinance in the same manner specified for adoption of emergency ordinances.

EMERGENCY APPROPRIATIONS

To meet a public emergency affecting life, health, property, or the public peace, the council may make emergency appropriations by resolution. To the extent that there are no unappropriated revenues to meet such an appropriation, the council can authorize the issuance of emergency notes, which may be renewed from time to time. The emergency notes and renewals must be paid no later than the last day of the fiscal year succeeding that in which the emergency appropriations were made.

²⁶ See, s. 166.041, F.S.

²⁷ Section 5(10) (d) calls for emergency ordinances to automatically be repealed on the 61st day after its effective date, while Section 9(6) authorizes temporary emergency ordinances and Section 9(13) authorizes transitional ordinances each to remain effective for no longer than 90 days after adoption. It may be appropriate to clarify the distinction among these ordinances and use a common time frame for their effectiveness. Legislative Committee on Intergovernmental Relations.

RECORDKEEPING

The council is required to, in a properly indexed book, provide for the authentication and recording in full of all minutes of meetings and all ordinances and resolutions. The council is further required to maintain a current codification of all ordinances. This codification must be printed and made available for distribution to the public on a continuing basis. All ordinances and resolutions of the council must be signed by all council members and attested to by the town clerk.

DUAL OFFICEHOLDING

No elected town official may hold any compensated appointive office or employment of the town while in office, nor may any former council member be employed by the town until after the expiration of one year after leaving office.

NONINTERFERENCE BY TOWN COUNCIL

Except for the purposes of inquiry and information, council members are expressly prohibited from interfering with the performance of the duties of any employee who is under the direct or indirect supervision of the town manager or town attorney. Such action is considered malfeasance within the meaning of s. 112.51, F.S.²⁸ Recommendations for improvements in the town government operations must come through the town manager, although each member of the council is free to discuss with or recommend to the town manager improvements in the town government operations, and the council is free to direct the town manager to implement specific recommendations for improvement in town government operations.

Section 6: Budget and appropriations.

FISCAL YEAR

The town's fiscal year begins on the first day of October and ends on the last day of September of the succeeding calendar year, unless otherwise defined by general law.²⁹ The fiscal year also constitutes the annual budget and accounting year.

BUDGET ADOPTION

The council is required to adopt a budget in accordance with applicable general law after a minimum of two public hearings on the proposed budget. A resolution adopting the annual budget constitutes appropriation of the amounts specified therein as expenditures from funds indicated.

EXPENDITURES

The budget may not provide for expenditures in an amount greater than budgeted revenues.

APPROPRIATIONS

If, during the fiscal year, revenues in excess of those estimated in the budget are available for appropriation, the council may by resolution make supplemental appropriations for the year in an amount not to exceed such excess.

If, at any time during the fiscal year, it appears probable that the revenues available will be insufficient to meet the amount appropriated, the town manager is required to report to the council the estimated

²⁸ This section provides that the Governor may suspend any elected or appointed municipal official for malfeasance, misfeasance, neglect of duty, habitual drunkenness, incompetence, or permanent inability to perform official duties by executive order stating the grounds for the suspension and filed with the Secretary of State.

²⁹ Section 166.241, F.S., provides that each municipality shall make provision for establishing a fiscal year beginning October 1 of each year and ending September 30 of the following year.

amount of the deficit, any remedial action taken, and make recommendations. The council must then take such action as it deems necessary to prevent or minimize any deficit and, may reduce one or more appropriations by resolution.

No appropriation for debt service can be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the unencumbered balance. Other provisions of law to the contrary notwithstanding, the supplemental and emergency appropriations and reduction or transfer of appropriations authorized by the charter may be made effective immediately upon adoption.

The council is required to maintain a reserve fund, provided for as a line item within its budget, to be used only to provide for the replacement or renewal of capital equipment and for facilities repair or in cases of unforeseen damage to equipment or facilities not covered by insurance. This fund is annually funded at a minimum of three percent of the annual town tax revenues used to calculate the year's budget until it accrues to \$10,000,000, at which time the set-aside funds may be discontinued.³⁰

BONDS; INDEBTEDNESS

Subject to the referendum requirements of the State Constitution,³¹ if applicable, the town may borrow money and issue bonds or other obligations or evidence of indebtedness of any type or character for any of the purposes for which the town is authorized by law to borrow money, including to finance the cost of any capital or other project and to refund any and all previous issues of bonds. Such bonds may be issued pursuant to resolutions adopted by a majority of the council.

The town may assume all outstanding indebtedness related to facilities it acquires from other units of local government and is liable for payment thereon in accordance with the terms of such indebtedness.³²

REVENUE BONDS; LEASE-PURCHASE CONTRACTS

Unless authorized by the electors of the town at a duly held referendum, the council may not authorize the issuance of revenue bonds or enter into lease-purchase contracts or any other unfunded multiyear contracts for the purchase of real property or the construction of any capital improvement the repayment of which extends in excess of 36 months unless mandated by state or federal governing agencies.

ANNUAL AUDIT

The council is required to provide for an independent annual financial audit of all town accounts and may provide for more frequent audits as it deems necessary. Such audits must be conducted by a certified public accountant or a firm of such accountants who have no personal interest, direct or indirect, in the fiscal affairs of the town government or in any of its officers. Residency in the town is not construed as a prohibited interest.

³⁰ It is unclear why the Town of Palm Harbor would need to maintain such a high reserve fund and the purpose for having the fund established in its charter rather than as an ordinance or a budget policy. Reserve funds are usually established and maintained by elected officials and not the electorate. Legislative Committee on Intergovernmental Relations.

³¹ See, Art. VII of the State Constitution.

³² It may be appropriate to expand this authority to assume indebtedness in order to reimburse other units of local governments for existing equity in such facilities. Legislative Committee on Intergovernmental Relations.

Section 7: Elections.

ELECTORS

Any person who is a resident of the town, who has qualified as an elector of the state, and who registers in the manner prescribed by general law is an elector of the town.

NONPARTISAN ELECTIONS

All elections for town council members are required to be conducted on a nonpartisan basis without any designation of political party affiliation.

ELECTION DATES

All regularly scheduled elections are required to be held on the second Tuesday after the first Monday in March of even-numbered years, as follows:

- (a) For the three candidates for at-large council member seats 1, 2 and 3 who receive the highest number of votes for their respective seats in the March 2010 election, the next election to fill these seats will be held on the second Tuesday after the first Monday in March 2014, and every four years thereafter.
- (b) For the two candidates for at-large council member seats 4 and 5 who receive the highest number of votes for their respective seats in the March 2010 election, the next election to fill these seats will be held on the second Tuesday after the first Monday in March 2012 and every four years thereafter.

RUNOFF ELECTIONS

In the event no candidate for an office receives a majority of the votes cast, the person receiving the largest number of votes cast will be elected. In the event two candidates receive an equal number of votes and the vote total exceeds all other candidates, a runoff election will be held on the fourth Tuesday in March. If the runoff election results in a tie, the outcome will be determined by lot.

TOWN CANVASSING BOARD

The Pinellas County canvassing board serves as the Town of Palm Harbor's canvassing board and is required to canvass and certify all municipal elections and referenda unless otherwise provided for by ordinance.

SPECIAL ELECTIONS

Special municipal elections, when required, must be scheduled by the council at such times and in such manner as consistent with the charter and general law.

GENERAL ELECTION

The ballot for the general election must contain the names of all qualified candidates and instruct electors to cast one vote for each at-large council member seat. The candidate for each council member seat receiving the most votes is the duly elected council member for that seat.

No election for any council member seat is required if there is only one duly qualified candidate for the seat.

The term of office of any elected official commences immediately after the election.

All elected officers, before entering upon their duties, are required to take and subscribe to the following oath of office:

"I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the state and the charter of the Town of Palm Harbor; that I am duly qualified to hold office under the Constitution of the State and the charter of the Town of Palm Harbor; and that I will well and faithfully perform the duties of council member upon which I am now about to enter."

The election laws of the state apply to all elections.³³

Any member of the town council may be removed from office by the electors of the town following the procedures for recall established by general law.

Section 8: General provisions.

SEVERABILITY

If any section or part of any section of the charter is held invalid by a court of competent jurisdiction, such holding will not affect the validity of the rest of the charter.

TOWN PERSONNEL SYSTEM

All new employments, appointments and promotions of town officers and employees must be made pursuant to personnel procedures to be established by the town manager.

CHARITABLE CONTRIBUTIONS

A charitable contribution to any person or entity must be authorized by the council.

VARIATION OF PRONOUNS

All pronouns and any variations thereof used in the charter are deemed to refer to masculine, feminine, neutral, singular, or plural as the identity of the person or persons require and are not intended to describe, interpret, define, or limit the scope, extent, or intent of the charter.

CALENDAR DAY

For the purpose of the charter, a "day" means a calendar day.

CHARTER REVIEW COMMITTEE

At its first regular meeting in April 2014 and every 10th year thereafter, the town council is required to appoint a charter review committee consisting of 15 individuals who are not members of the town council to serve in an advisory capacity to the council.

Each council member is required to nominate three individuals to serve on the committee as regular members, which appointments must be approved by a majority vote of the town council. The town clerk and the town attorney are required to advise the council in advance of the date when such appointments may be made. Individuals appointed to the charter review committee must be citizens of the town. The charter review committee appoints its own chair and vice chair and adopts its own rules and procedures.

³³ See, generally, Title IX of the Florida Statutes.

The charter review committee must commence its proceedings within 30 days after it is appointed. The committee is required to review the charter and provide input to the council regarding its modernization and improvement. The public will be given an opportunity to speak and participate at charter review committee meetings in accordance with the rules of the charter review committee.

All recommendations by the charter review committee are forwarded to the town council in ordinance form for consideration no later than the 1st day of March of the year after the appointment of the charter review committee and in sufficient time to be considered by the town council.

The town council must consider the recommendations of the charter review committee at its regular meeting in November and the regular meeting in December of the year after appointment of the charter review committee.

CHARTER AMENDMENTS

The charter may be amended in accordance with the provisions for charter amendments as provided by general law.³⁴ The form, content and certification of any petition to amend must be established by ordinance.

INITIATION BY PETITION

The electors of the town may propose amendments to the charter by petition submitted to the council to be placed before the electors, as provided by general law.

STANDARDS OF CONDUCT

All elected officials and employees of the town are subject to the standards of conduct for public officers and employees set by general law. In addition, the town council must, no later than six months after the effective date of incorporation, establish by ordinance a code of ethics for officials and employees of the town which may be supplemental to general law. The intent is to require more stringent standards than those provided under general law.³⁵

LAND USE; REZONING

Any change to the town's future land use map or to the zoning designation for any parcel within the town requires the affirmative vote of no fewer than four members of the council. See, the comments relating to TRANSITIONAL COMPREHENSIVE PLAN AND LAND DEVELOPMENT REGULATIONS in Section 9, below.

Section 9: Transition schedule.

REFERENDUM

The Pinellas County Commission is required to hold a referendum on November 3, 2009, at which time the following question will be placed upon the ballot:

"Shall the creation of the Town of Palm Harbor and its charter be approved?"

In the event this question is answered affirmatively by a majority of electors voting in the referendum, the provisions of the charter take effect. The referendum must be conducted by the Supervisor of Elections of Pinellas County in accordance with the Florida Election Code, with the cost of such election to be funded by Pinellas County.

³⁴ See, s. 166.031, F.S.

³⁵ The Code of Ethics for Public Officers and Employees, part III of ch. 112, F.S., provides at s. 112.326, F.S., that additional requirements by political subdivisions are not prohibited.

INITIAL ELECTION OF COUNCIL MEMBERS; DATES

Following the adoption of the charter, the Pinellas County Commission is required to call a special election for the election of the five town council members to be held on March 9, 2010. Candidates will qualify for seat 1, seat 2, seat 3, seat 4, and seat 5. The candidate receiving the highest number of votes for each seat will be elected. If two or more candidates for a designated council member seat receive an equal and the highest number of votes, they compete in a runoff election held on March 23, 2010.

An individual who wishes to run for one of the five initial seats on the council must qualify as a candidate with the Pinellas County Supervisor of Elections in accordance with the provisions of the charter and general law.

The Pinellas County canvassing board is required to canvass and certify the results of the election.

Those candidates who are elected on March 9, 2010, and March 23, 2010, take office at the initial town council meeting, which will be held at 7 p.m. on March 25, 2010.

CREATION AND ESTABLISHMENT OF THE TOWN

For the purpose of compliance with s.200.066, F.S., relating to assessment and collection of ad valorem taxes, the town is created and established effective December 1, 2009; notwithstanding anything to the contrary contained in the charter, the town, although created and established as of December 1, 2009, will not be operational until March 25, 2010.

FIRST-YEAR EXPENSES

The council, in order to provide funds for the expenses and support of the town, has the power to borrow money necessary for the operation of town government until such time as a budget is adopted and revenues are raised in accordance with the provisions of the charter.

TRANSITIONAL ORDINANCES AND RESOLUTIONS

All applicable county ordinances currently in place at the time of passage of the referendum, unless specifically referenced in the charter, remain in place unless rescinded by the council.³⁶

TEMPORARY EMERGENCY ORDINANCES

The council is required to adopt ordinances and resolutions required to effect the transition. Ordinances adopted within 90 days after the first council meeting may be passed as emergency ordinances. These emergency ordinances will be effective for no longer than 90 days after adoption and thereafter may be readopted, renewed, or otherwise continued only in the manner normally prescribed for ordinances.

³⁶ It is noted that Pinellas County is a charter county and, as such, is required to provide which shall prevail in the event of conflict between county and municipal ordinances. See, s.1(g), art. VIII of the State Constitution. Article II., Sec. 2.01., of the Pinellas County Charter provides: *In the event of a conflict between a county ordinance and a municipal ordinance, the county ordinance shall prevail over the municipal ordinance when general law provides that a county ordinance shall prevail over a municipal ordinance, or when it concerns a power of local county government lawfully and constitutionally enacted by special law at the time of the adoption of this Charter, except that the county shall not hereafter amend such special law or laws to increase or expand the county's power, jurisdiction, or services over the municipalities or their powers or services. The county ordinance shall prevail over the municipal ordinance when a special law enacted subsequent to the adoption of this Charter and approved by a vote of the electorate provides that a county ordinance shall prevail over a municipal ordinance or when the county is delegated special powers within an area of governmental service enumerated in this Charter. In all other cases where a county ordinance conflicts with a municipal ordinance, the municipal ordinance shall prevail.*

TRANSITIONAL COMPREHENSIVE PLAN AND LAND DEVELOPMENT REGULATIONS

Until such time as the town adopts a comprehensive plan, the Pinellas County Future Land Use Map, the Pinellas County Zoning Map, and all other provisions of the Comprehensive Plan and Land Development Regulations of Pinellas County that are applicable to the town, as the same exist on the day the town commences corporate existence, remain in effect as the town's transitional comprehensive plan and land development regulations. However, all planning functions, duties and authority are thereafter vested in the town council, which is deemed the local planning agency until it establishes a separate such agency.

All powers and duties of the planning commission, zoning authority, any boards of adjustment, and the County Commission of Pinellas County, as set forth in these transitional zoning and land use regulations, are vested in the town council until such time as it delegates all or a portion thereof to another entity.³⁷

COMMUNICATIONS SERVICES TAX

The communications services tax imposed pursuant to s. 202.19, F.S., by Pinellas County will continue within the town boundaries during the period commencing with the date of incorporation through December 31, 2010. Revenues from the tax will be shared by Pinellas County with the town in proportion to the projected town population estimate of the Pinellas County Planning Division compared with the unincorporated population of Pinellas County before the incorporation of the town.³⁸

STATE-SHARED REVENUES

The town is entitled to participate in all shared revenue programs of the state available to municipalities effective April 1, 2010. The provisions of s. 218.23(1), F.S., are waived for the purpose of eligibility to receive revenue sharing funds from the date of incorporation through the state fiscal year 2011-2012. Initial population estimates for calculating eligibility for shared revenues will be determined by the University of Florida Bureau of Economic and Business Research. Should the bureau be unable to provide an appropriate population estimate, the Pinellas County Planning Division estimate will be used. For the purposes of qualifying for revenue sharing, the following revenue sources must be considered: municipal service taxing units, fire municipal service taxing units, ad valorem taxes, communications services tax, and franchise fees.³⁹

³⁷ Currently, the Pinellas Board of County Commissioners has county-wide planning authority for certain functions that should be recognized by this section. Article II, Sec. 2.04 (s) of the Pinellas County Charter provides that the county shall have: *Countywide planning authority as provided by special law. In the event of a conflict between a county ordinance adopted pursuant to the county's countywide planning authority as provided by special law and a municipal ordinance, the county ordinance shall prevail over the municipal ordinance; however, a municipal ordinance shall prevail over a county ordinance in the event a municipal ordinance provides for a less intense land use or a lesser density land use within the corporate boundaries of the municipality than that provided by county ordinance.*

³⁸ Section 9(8) of the draft charter states that communication services tax (5.22 percent) imposed pursuant to s. 202.19, F.S., by Pinellas County will continue within the town boundaries during the period commencing with incorporation (12/1/09) through 12/31/10 and that revenues shall be shared by Pinellas County with Palm Harbor in proportion to the projected town population estimate of the Pinellas County Planning Division compared with the unincorporated population of Pinellas County before the incorporation of Palm Harbor. Neither the proposed charter nor the feasibility study (page 61) mentions whether Palm Harbor will impose a CST after 12/31/10. A municipality adopting, changing or repealing the CST must notify the Department of Revenue by September 1, prior to the January 1 effective date, in order to provide sufficient time for DOR to notify providers of changes. DOR, as a part of its administration of CST, maintains an address database for use by the providers. Each local taxing jurisdiction is required to furnish service addresses and any changes in jurisdictional boundaries to DOR. Since the Palm Harbor Council will not meet until 3/22/2010, the earliest a CST could be imposed would be 1/1/11. If so, Palm Harbor must adopt an ordinance for the CST prior to 9/1/10 to be effective 1/1/11. Department of Revenue.

³⁹ The Department of Revenue review dated February 10, 2009, notes that Palm Harbor will complete its first full local fiscal year on 9/31/2011 and could potentially satisfy the revenue sharing reporting and audit criteria contained in s. 218.23(1)(a), F.S., and s. 218.23(1)(b), F.S., respectively, by 6/30/2012, the end of the 2011-2012 state fiscal year. Thus, the waiver of s. 218.23(1), F.S., by s. 9(11) of the charter through the state fiscal year 2011-2012 appears to be sufficient. Section 218.23(1)(c), F.S., requires as a condition of revenue sharing eligibility, that a local government impose three mills of ad valorem tax or a three-mill equivalent. Section 9 of the bill provides that the following revenue sources be considered for the purposes of qualifying for revenue sharing: municipal service taxing units, fire municipal service taxing units, ad valorem taxes, communication services tax, and franchise fees. Section

MOTOR FUEL TAX REVENUES

Notwithstanding the requirements of s.336.025, F.S, to the contrary, the town will be entitled to receive local option motor fuel tax revenues beginning October 1, 2010. These revenues will be distributed in accordance with the interlocal agreements with Pinellas County.⁴⁰

DEPARTMENTS, OFFICES, AND AGENCIES

From and after the effective date of incorporation of the Town of Palm Harbor, and during the transition period and until such time as the town council becomes operative, Pinellas County will continue to provide the town residents with all of the same services it provided prior to the approval of the referendum and adoption of the charter.⁴¹

The property, records, and equipment of any department, office, or agency of Pinellas County existing when the charter is adopted may, at the discretion of the Pinellas County Commission, be transferred to the department, office, or agency of the town assuming its powers and duties.

PENDING MATTERS

All rights, claims, actions, orders, contracts, and administrative proceedings affecting the area incorporated into the Town of Palm Harbor will continue with the county or state agency having jurisdiction over such matters, except as modified, pursuant to the provisions of the charter.

TRANSITIONAL ORDINANCES AND RESOLUTIONS

The initial town council has the authority and power to enter into contracts, arrange for the hiring of interim legal counsel, begin recruiting applicants for the position of town manager, provide for necessary town offices and facilities, and do such other tasks as deemed necessary and appropriate for the town to become operational on March 25, 2010.

The initial council is required to adopt ordinances and resolutions required to effect the transition. Ordinances adopted within 90 days after the first council meeting may be passed as emergency ordinances as provided in the charter, except that the transitional ordinances will be effective for no longer than 90 days after adoption and, thereafter, may be readopted, renewed, or otherwise continued only in the manner normally prescribed for ordinances.

CONTRACTUAL SERVICES AND FACILITIES

Services deemed necessary for the operation of the Town of Palm Harbor, including, but not limited to, services for fire protection, police, emergency management, public works, parks and recreation, planning and zoning, building inspection, development review, animal control, and solid waste collection, may be supplied through a contractual agreement between the Town of Palm Harbor and

218.23(1)(c), F.S., allows occupational license taxes and utilities taxes to be included in the three mill calculation, but not franchise fees or communications services taxes. Page 59 of the feasibility study states the Town of Palm Harbor will impose ad valorem taxes at the rate of 2.0857 mills, which is equivalent to the current county MSTU rate. The sum of the millages for the Palm Harbor Fire and Rescue District (1.8263 mills), the Palm Harbor Community Services District (.4378 mills), and the county MSTU (2.0857 mills) is a total of 4.3498 mills, exceeding the three mil requirement without inclusion of franchise fees or communications services taxes.

⁴⁰ Section 336.025(4)(b), F.S., provides that newly incorporated municipalities shall not receive fuel tax distributions until the beginning of the first full local fiscal year following incorporation. Section 9(10) of the proposed charter states that Palm Harbor shall be entitled to receive local option gas tax revenues beginning 10/1/10, which would be the beginning of Palm Harbor's first full local fiscal year. Section 336.025(4)(b), F.S., requires that gas tax distributions to newly incorporated municipalities are to be in accord with the lane-mile formula unless provided otherwise by the special act providing for the incorporation. Section 9(10) of the proposed charter states that the distribution shall be pursuant to the interlocal agreements with Pinellas County. The budget shown in the feasibility study on page 52, does include gas tax revenue prior to the 2010/2011 local fiscal year. Florida Department of Revenue.

⁴¹ As this subsection directs Pinellas County government to continue providing all services to the Palm Harbor community, it may be appropriate to note that Pinellas County government will continue to receive remuneration for those services for the duration they are provided. Legislative Committee on Intergovernmental Relations.

Pinellas County, special districts, municipalities, or private or public enterprises until such time as the town council establishes such independent services. Facilities for housing the newly formed municipal operations may be rented or leased until the Town of Palm Harbor is in the financial position to obtain its own facilities.

INDEPENDENT SPECIAL DISTRICTS

It is recognized that certain services within the municipal boundaries are provided by independent special districts created by special acts of the Legislature. The town is empowered to merge the functions of said districts with those of the town only upon majority vote of the town council and an affirmative vote of the majority of the council or board governing the district after meeting all requirements for merger or dissolution in the district's enabling legislation and ch.189, F.S. It is recognized that certain planning and interlocal agreements may be necessary between the town and such districts, and the council must endeavor to maximize the benefits of the districts to the fullest extent possible. In the event the council desires to supplement or duplicate services determined to be inadequate, it is fully empowered to do so.

LOCAL GOVERNMENT INFRASTRUCTURE SURTAX

The Town of Palm Harbor is entitled effective April 1, 2010, to participate in the local government infrastructure surtax, a local discretionary sales surtax levied pursuant to s. 212.055(2), F.S. If the town is unable to participate in the interlocal agreement between the county's governing body and the governing bodies of the municipalities representing a majority of the county's municipal population, the default distribution method, which is to be based on the local government half-cent sales tax formulas provided in s. 218.62, F.S., will apply.⁴²

WAIVER

The provisions of s. 218.23(1), F.S., are waived for the purpose of conducting audits and financial reporting through fiscal year 2009-2010.

Section 10: Continuation, merger, and dissolution of existing districts and service providers.

PALM HARBOR SPECIAL FIRE CONTROL DISTRICT; CONTINUATION

Notwithstanding the incorporation of the Town of Palm Harbor, that portion of the Palm Harbor Special Fire Control District, a special taxing district created by ch. 61-2661, L.O.F., that lies within the boundaries of the Town of Palm Harbor, is authorized to continue in existence until the town adopts an ordinance to the contrary. However, the town may not establish a town fire department without a referendum.

PALM HARBOR COMMUNITY SERVICES DISTRICT; CONTINUATION

Notwithstanding the incorporation of the Town of Palm Harbor, that portion of the Palm Harbor Community Services District, a municipal services taxing unit created in 1985 pursuant to Pinellas County Ordinance 85-28 to provide library and recreation services to the residents within the boundaries of the Town of Palm Harbor is authorized to continue in existence until the town adopts an ordinance to the contrary. However, the Palm Harbor Community Services Agency may not be abolished without a referendum.⁴³

⁴² According to the Department of Revenue, Pinellas County currently imposes one percent local government infrastructure surtax, imposed 2/1/90, which has a specified expiration date of 12/31/2019. The proposed charter contains a provision addressing the surtax, providing that effective 4/1/2010, Palm Harbor shall participate in the distribution of the surtax pursuant to an interlocal agreement between Pinellas County and its municipalities representing a majority of the municipal population, and if not, then according to the default provision, based on the local government half-cent sales tax formulas provided in s. 218.62, F.S.

⁴³ Both this provision and the previous one with regard to the Palm Harbor Special Fire Control District may be overly restrictive and limit the ability of the elected town council from pursuing alternative service delivery arrangements that would benefit both town residents and neighboring jurisdictions. Legislative Committee on Intergovernmental Relations.

LAW ENFORCEMENT.

Law enforcement services must be provided by contract with the Pinellas County Sheriff's Office or by contract with other law enforcement agencies until the town adopts an ordinance to the contrary.

Section 11: The act takes effect only upon approval by a majority of those qualified electors residing within the proposed corporate limits of the proposed Town of Palm Harbor voting in a referendum to be held on November 3, 2009, except that for provisions relating to the referendum.

B. SECTION DIRECTORY:

Section 1: Creates a charter for the Town of Palm Harbor, provides for creation of city, form of government; boundaries and powers.

Section 2: Provides for council, mayor and vice mayor.

Section 3: Provides for election and terms of office.

Section 4: Provides administrative provisions.

Section 5: Provides legislative provisions.

Section 6: Provides for budget and appropriations.

Section 7: Provides for elections.

Section 8: Provides general provisions relating to severability, the town personnel system, a charter review committee, charter amendments, standards of conduct, land use and rezoning.

Section 9: Provides for a transition schedule.

Section 10: Provides for continuation, merger and dissolution of existing districts and service providers.

Section 11: Provides for a referendum. Provides that subsection (1) of section 9 and this section take effect upon becoming a law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN?

WHERE?

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN? November 3, 2009.

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

According to the Economic Impact Statement (EIS), the estimated cost of administration, implementation and enforcement of the bill is \$22,216,714 in Fiscal Year 2009-2010 and \$21,636,451 in Fiscal Year 2010. Anticipated sources of funding include \$1,300,321 in revenue sharing, \$2,854,696

in half cent sales tax, \$8,939,095 in ad valorem taxes, \$5,064,836 in local government infrastructure surtax, and \$3,024,583 in communication services tax for both Fiscal Years 2009-2010 and 2010-2011. Anticipated new, increased or decreased revenues are noted as \$24,205,239 for Fiscal Year 2009-2010 and \$23,205,239 for Fiscal Year 2010-2011.

With regard to the estimated economic impact on individuals, business or governments, the EIS states that:

No new taxes are expected as a result of incorporation.

Individuals and businesses will have their tax money redirected into their community to focus on community needs and services. The unique needs of the incorporating community can be identified and addressed at a micro level enabling the unified community to grow economically. The residents and businesses within unincorporated Palm Harbor will have the opportunity to determine their own level of service, method of service provision, and tax structure if the area incorporates. The business model for running the newly incorporated area guarantees that the tax structure will impact the localization of jobs within the community positively through wise spending and strategic investing. Once incorporation is approved, the identification of impacted local industries for development is crucial in determining the town's growth. Pinellas County will benefit financially by reducing its responsibility for municipal level services in order to focus on regional level issues impacting all municipalities within its governance. Pinellas County will have a financially responsible administrative partner through the new municipality to assist in resolving local and regional issues. The new town of Palm Harbor could increase service levels and/or reduce the ad valorem millage rate. Basic public health and safety improvements utilizing an economic development model would increase the quality of life for everyone in Palm Harbor.

The EIS does not cite any disadvantages to the proposed incorporation. It estimates that there would be a positive impact upon competition and employment, stating that Palm Harbor would be able to invest in community and economic development, while focusing on creating local jobs with above average wages. Local infrastructure improvements will assist in economic recovery.

The data used in making revenue estimates was based on information from the Department of Revenue (state revenue sharing, half-cent sales tax and the local government infrastructure surtax) and applying an ad valorem millage equal to the current Unincorporated-Municipal Services Taxing Unit rate.

The data used in making expense estimates was based on reviewing budgets of nearby cities and Florida municipalities of equal size as the proposed incorporation area, current expenditures for the unincorporated areas of Pinellas County and estimated cost of services to be supplied by the Pinellas County Sheriff's Office.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

The Sponsor of the bill may want to consider amending the proposed charter to create single-member districts, deleting the language on lines 618-619 referring to “[o]ther provisions of law to the contrary notwithstanding,” removing the language on line 627 referring to acts of God, and deleting the references to the communications services tax and franchise fees on line 913.

Other Comments

Exemptions to General Law

Pursuant to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.5(b) appear to apply to this bill.

The bill may create exemptions to the following general law:

- s. 165.061(1)(d), F.S., regarding minimum distance requirements.
- s. 218.23(1), F.S., regarding revenue sharing.

Department of Revenue

The Department provided revenue estimates for the 2008-2009 state fiscal year:

Revenue Sharing: \$1,362,646
½ Cent Sales Tax: \$2,854,696
Discretionary Surtax: \$5,064,836

Department of Community Affairs

If Palm Harbor should incorporate, it will be required to develop and adopt a comprehensive plan as provided by ch.163, Part II, F.S., and rule 9J-5, F.A.C., within three years after the date of incorporation. The Pinellas County comprehensive plan as it exists on the date of incorporation will be the controlling document for guiding growth and development until Palm Harbor adopts its own plan. Within one year, the local government must establish a local planning agency pursuant to s. 163.3174, F.S., and notify the Department of Community Affairs of the establishment of the local planning agency for the purpose of developing the comprehensive plan.

Office of the Governor

At the time that this analysis was completed, comments had not been received from the Office of the Governor.

Legislative Committee on Intergovernmental Relations

Along with other comments which are noted throughout this analysis, the Legislative Committee on Intergovernmental Relations provided a review which compared the revenue and expenditure estimates for the proposed municipality of Palm Harbor with “similarly sized” municipalities in Florida.

For comparison purposes, the analysis assumes that the communities of Ozona and Crystal Beach, in conjunction with Palm Harbor approve incorporation. Ten comparison municipalities are similar to Palm Harbor's population of 61,838 residents and are presented in the following table.

All comparison municipalities reported FY 2005-06 total expenditures greater than those projected for Palm Harbor. The estimated expenditures projected for Palm Harbor (\$22,216,714) is less than 24 percent of the "average" reported expenditures for the 10 comparison municipalities (\$94,490,960). Underestimating revenues necessary for operating a municipal government is consistent with findings from a recent 2007 Legislative Committee on Intergovernmental Report, which compared budget projections in feasibility studies with actual reported revenues and expenditures of municipalities in the first complete fiscal years following incorporation. One major study observation was that overall, budget projections underestimated, and in some cases significantly, both the amount of revenues collected by the municipality as well as its total expenditures.

Three additional issues are noted in this comparison. First, the projected expenditures for Palm Harbor do not include expenditures associated with fire protection services and other community services currently provided by special districts to the residents under the current county tax structure. If included, such costs would increase the proposed expenditures and somewhat reduce the expenditure differential between Palm Harbor and the comparison municipalities.

Moreover, the Palm Harbor budget does not include revenues or expenditures derived through enterprise funds. Enterprise funds represent approximately 33 percent of total revenues for the 10 comparison municipalities and 30 percent of total expenditures. When enterprise funds are excluded from the expenditures of the comparison municipalities, their average expenditure is approximately \$66,310,000 or three times the expenditure projections for Palm Harbor.

The second issue regards budgeted costs associated with inspections, permit reviews, and other services that may be provided by Pinellas County government. As noted above, communications from County officials do not affirm that the county will provide the specified services for the amount identified in the study's proposed budget.

The third issue concerns the different fiscal years contained in the comparison. The fiscal data for the 10 comparison municipalities reflect total reported revenues and expenditures for FY 2005-06, while the fiscal estimates for Palm Harbor are those projected for FY 2009-10. It can be assumed that total expenditures and revenues for these 10 municipalities will have increased during this time period, and as a result, increased the gap between their "average" reported expenditures and those projected for Palm Harbor.

Comparison of Total Revenues and Expenditures for 10 Municipalities with Populations Similar to Proposed Municipality of Palm Harbor⁴⁴

Municipality	Pop. Estimate ⁴⁵	Revenues	Expenditures
Palm Harbor	61,838	\$24,205,239	\$22,216,714
North Port	56,316	\$102,964,904	\$73,178,721
Port Orange	57,218	\$77,368,715	\$60,710,901
Homestead	59,415	\$132,883,310	\$121,364,549
North Miami	59,688	\$78,433,287	\$85,537,000
Tamarac	59,855	\$90,288,600	\$86,639,455
Kissimmee	61,458	\$71,098,000	\$73,207,000
Weston	62,088	\$93,291,017	\$78,138,355
Delray Beach	64,220	\$152,783,492	\$161,498,077
Lauderhill	64,635	\$73,488,960	\$76,837,814
Daytona Beach	64,927	\$136,174,102	\$127,797,727

33 FY 2005-2006 reported revenues and expenditures by the 10 comparison municipalities and projected 2009-10 revenue and expenditure estimate for Palm Harbor contained within the Study of the Feasibility of Incorporation of Palm Harbor, December 3, 2008.

34 2008 population counts for comparison municipalities reported by the Bureau of Economic and Business Research, University of Florida. Population estimates for Palm Harbor for calendar year 2007 contained within the Study of the Feasibility of Incorporation of Palm Harbor.

Sources: Florida LCIR, using fiscal data submitted by municipalities to the Department of Financial Services; Florida Estimates of Population 2008, Bureau of Economic and Business Research, University of Florida, 2008; information contained within the Study of the Feasibility of Incorporation of Palm Harbor.

AVERAGE

60,982

\$100,877,439

\$94,490,960

Office of Economic and Demographic Research

The submitted analysis on the proposed revenues and expenditures appears to be a fair and conservative estimate based on normal economic conditions. We suggest a more cautious estimate should be made to account for the severe economic contraction facing Florida. Nearly 50 percent of the proposed revenues in the analysis are derived from property and sales taxes. Our office estimates that both of these tax sources will decline statewide over the next year. By assuming flat growth in the near-term, this revenue analysis may overestimate the actual revenues received.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES